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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,430	07/14/2000	In Ho Lee	630-1084P	5343

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EXAMINER

DAVIS, DAVID DONALD

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/617,430

Applicant(s)

LEE ET AL.

Examiner

David D. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-14 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) 22-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-14 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Election/Restrictions*

1. Claims 18-21 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in Paper No. 14, received March 11, 2004.

2. Applicant's election with traverse of Group I, claims 11-14 and 18-21 in Paper No. 14, received March 11, 2004 is acknowledged. The traversal is on the ground(s) that the inventions "the specification clearly discloses the relationship between the subject matter of the claims of these groupings, and thus, are not wholly unrelated or 'independent'". This is not found persuasive because the restriction is based on the invention *as claimed* not as described in the specification.

The requirement is still deemed proper and is therefore made FINAL.

3. This application contains claims 18-24 are drawn to an invention nonelected with traverse in Paper No. 14, March 11, 2004. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 11-14, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Morikawa et al (US 5,173,893). In figure 2, Morikawa et al shows a disk-transferring device for a disk drive including moving unit 9a/9b for being contacted to one surface of disk 101/106 and rotated by the force of a driving source for moving disk 101/106.

Figure 9 shows balance guide unit 13 for guiding an inserted disk for thereby precisely inserting disk 101/106. Holder guide unit 15 is connected with balance guide unit 13 and is operated by operation of unit 13 for guiding disk 101/106 moved by moving unit 9a/9b and guiding disk 101/106 unit disk transfer is finished.

Figure 9 also shows selection guide unit 42 that is connected with holder guide unit 15 for positioning disk 101/106 according to the size of the inserted disk. Figure 9 also shows holder guide unit 15 and selection guide unit 42 receiving the driving force separated from disk 101/106 from the driving source when the disk transfer is finished.

Figure 2 shows clamping drive unit 31 for clamping disk 101/106. Clamping disk unit is interlocked with selection guide unit 42. Also shown in figure 2 is holder guide unit 42 interlocking with clamping driving unit 31 for being separated from disk 101/106.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morikawa et al (US 5,173,893) in view of Agostini (US 4,674,079). Morikawa et al discloses the claimed invention. However, Morikawa et al is silent as to a rack gear for the driving plate.

Agostini shows in figure 9 a driving plate 3 with a rack gear.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide Morikawa et al with a driving plate having a rack gear as taught by Agostini. The rationale is as follows: one of ordinary skill in the art at the time the invention was made would have been motivated to provide a driving plate with a rack gear to provide a secure driving connection for the transfer sensor.

***Response to Arguments***

9. Applicant's arguments filed November 14, 2003 and March 11, 2004 have been fully considered but they are not persuasive. In lines 2-10 on page 9 applicant asserts the following:

although it may be arguable that the first link 42 "cooperates" with the centering lever 15 (through elements 43, 131 and 13), it is surely unreasonable for the Examiner to assert that the first link 42 is "connected with" the centering lever 15. Otherwise, any element that cooperates with another element would be "connected" thereto, according to the Examiner's allegation. For example, under the Examiner's interpretation, the driving rollers 9a and 9b, swing arm 38, etc. of Morikawa would also be "connected with" the centering lever 15. Surely, this type of interpretation is both unreasonable and improper.

According to The American Heritage Dictionary, "connected" is defined as "*Joined or fastened together*" and "cooperates" is defined as "*To work or act together toward a common end or purpose*". First link 42 and centering lever 15 cooperate *and* are connected with each other. It is unclear how it can be stated that an interpretation consist with the dictionary definition is unreasonable and improper when applicant's interpretation is lacking any basis and is in fact a predisposed conclusion.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period


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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Davis whose telephone number is (703) 308-1503. The examiner can normally be reached on Monday thru Friday between 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David D. Davis  
Primary Examiner  
Art Unit 2652

ddd